

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shalini Tripathi	Team: Team # 7	CCRB Case #: 200915610	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/03/2009 5:11 AM	Location of Incident: the intersection of W. 182nd Street and St. Nicholas Avenue	Precinct: 34	18 Mo. SOL 4/3/2011	EO SOL 4/3/2011	
Date/Time CV Reported Sat, 10/03/2009 6:25 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 10/03/2009 6:25 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Raleigh	21415	947377	MN IRT
2. An officer			MN IRT
3. POM Gregory Zakoscielny	22059	945367	MN IRT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Raleigh	Discourtesy: PO Michael Raleigh spoke obscenely and rudely to § 87(2)(b)	
B.POM Gregory Zakoscielny	Off. Language: PO Gregory Zakoscielny made remarks to § 87(2)(b) based upon ethnicity.	
C.POM Michael Raleigh	Force: PO Michael Raleigh used physical force against an individual.	
D. An officer	Force: An officer used physical force against an individual.	

Case Summary

§ 87(2)(b) also known as § 87(2)(b) Brito, filed a complaint with the CCRB via the call processing system on October 3, 2009 (encl. 5).

On that date, at approximately 5:11 a.m., § 87(2)(b) stopped at a red light near the intersection of W. 182nd Street and St. Nicholas Avenue in Manhattan, and asked for assistance from PO Michael Raleigh and PO Gregory Zakoscielny. The following allegations resulted:

- **Allegation A – Discourtesy:** PO Michael Raleigh spoke obscenely and rudely to

§ 87(2)(b)

§ 87(2)(g)

- **Allegation B – Offensive language:** PO Gregory Zakoscielny made remarks to § 87(2)(b) based upon ethnicity. § 87(2)(g)

- **Allegation C – Force:** PO Michael Raleigh used physical force against § 87(2)(b)

§ 87(2)(g)

- **Allegation D – Force:** An officer used physical force against § 87(2)(b)

§ 87(2)(g)

Results of Investigation

Civilian Statement

Complainant: § 87(2)(b)

- § 87(2)(b) is a thirty-one year old Hispanic male. § 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on October 28, 2009 (encl. 6). On October 3, 2009, at approximately 5:11 a.m., § 87(2)(b) had stopped at a red light at the intersection at W. 182nd Street and St. Nicholas Avenue in Manhattan. An intoxicated pedestrian crossing the street stopped in front of his cab and yelled at § 87(2)(b) for the duration of two light changes, or approximately four minutes.

§ 87(2)(b) saw two uniformed officers on foot nearby and motioned to them for assistance. One officer was identified by the CCRB as PO Michael Raleigh, who was described by § 87(2)(b) as a white male who stands approximately 5’9”, has a thick, heavy-set build, and blonde hair. The second officer, identified by the CCRB as PO Gregory Zakoscielny, was described by § 87(2)(b) as an Asian male who stands approximately 5’7”, has a thin build, and black hair.

PO Zakoscielny banged on the trunk of § 87(2)(b) s cab and ordered him to make a right onto W. 182nd Street. PO Raleigh went in front of the cab to deal with the intoxicated pedestrian and asked § 87(2)(b) “What happened, motherfucker?” When

§ 87(2)(b) informed the officers he didn't speak English, PO Zakoscielny replied, "Fucking Dominican."

PO Raleigh then pushed the intoxicated man to the ground. When this man stood up, PO Raleigh continued to push him until he was on the sidewalk. About one minute later, a marked police van containing five officers arrived on the scene and these officers attended to the intoxicated man. An unidentified responding officer pushed the man while the other officers laughed. § 87(2)(b) did not provide a description of this responding officer, since he could not distinguish which officer pushed the man, and also did not know what happened to the man.

§ 87(2)(b) then followed PO Zakoscielny's order to make a right turn onto W. 182nd Street. § 87(2)(b) stated that PO Zakoscielny took his documents and wrote him a summons for § 87(2)(b). However, during the course of this investigation, it was found that § 87(2)(b)'s summons was issued by PO Raleigh (encl. 15). According to § 87(2)(b) while PO Zakoscielny was writing this summons, PO Raleigh asked § 87(2)(b) if he had been drinking, grabbed § 87(2)(b)'s face, and pulled it towards his own, which § 87(2)(b) believed he did in order to smell his breath.

§ 87(2)(b) did not exit his vehicle for the duration of the incident, which lasted approximately ten minutes.

Attempts to Contact Civilians

The only civilian witness to the incident was the intoxicated man. The CCRB was unable to identify this individual.

NYPD Statements:

Subject Officer: PO MICHAEL RALEIGH

- § 87(2)(b) year old white male, height 6'0", weight 185 pounds, blonde hair and blue eyes.
- On the date of the incident, PO Raleigh was assigned to the 34th Precinct, foot patrol post 2A. He worked from 10:00 p.m. to 6:35 a.m. with PO Gregory Zakoscielny in uniform and on foot.

Memo Book

PO Raleigh had the following entry in his memo book related to this incident. At 5:43 a.m., PO Raleigh issued a "C" summons for § 87(2)(b) at W. 182nd Street and St. Nicholas Avenue to § 87(2)(b) (encl. 15).

CCRB Testimony

PO Raleigh was interviewed by the CCRB on February 9, 2010 (encl. 8). PO Raleigh had only a vague recollection of this incident, and provided the following statement. PO Raleigh and his partner saw a dispute between a livery cab driver and an intoxicated passenger who refused to pay his fare. The officers took the passenger out of the cab and made him pay the fare. PO Raleigh thought the only physical contact he had with this individual was when he removed him from the cab, but did not recall using any physical force against this individual. PO Raleigh remembered that the passenger told the officers that the driver had not taken him to his destination, which was located somewhere in the 28th Precinct. PO Raleigh remembered that the

cab driver was unhappy about the way the incident ended, and that the passenger did not have the full cost of the cab fare with him.

PO Raleigh did not remember issuing the cab driver a summons, and did not recall the circumstances which led him to issue § 87(2)(b) the summons. The undersigned investigator had not yet received a copy of the summons at the time of this interview and so PO Raleigh could not review it. PO Raleigh stated that no additional units responded to the incident. PO Raleigh did not recall either himself or his partner making disparaging remarks about Dominican people, people who do not speak English, or people who speak Spanish. PO Raleigh did not recall physically interacting with the cab driver, and also stated that because he usually does not use discourteous language with civilians, he believed it was unlikely that he used any sort of discourteous language on the night of the incident.

Subject Officer: PO GREGORY ZAKOSCIELNY

- § 87(2)(b) year old white male, height 5'10", weight 214 pounds, brown hair and brown eyes.
- On the date of the incident, PO Zakoscielny was assigned to the 34th Precinct, foot patrol post 2A. He worked from 10:00 p.m. to 6:35 a.m. with PO Michael Raleigh in uniform and on foot.

Memo Book

PO Zakoscielny had no entries in his memo book related to this incident.

CCRB Testimony

PO Zakoscielny was interviewed by the CCRB on February 17, 2010 (encl. 10). PO Zakoscielny stated that at approximately 5:40 a.m. on October 3, 2009, he and his partner, who were implementing a zero-tolerance policy for parking violations, asked several cab drivers parked in front of a nightclub located on St. Nicholas Avenue between W. 182nd and W. 183rd Streets to move their illegally parked cars.

While PO Zakoscielny recalled issuing a summons to another cab driver, he had no recollection of interacting with § 87(2)(b) on this date, even after reviewing a copy of § 87(2)(b)'s driver's license.

PO Zakoscielny did, however, recognize § 87(2)(b) as a cab driver who regularly goes to the nightclub to pick up passengers. PO Zakoscielny stated that he did not remember an incident in which he was called over to aid a driver with an intoxicated man. PO Zakoscielny stated that a van with officers did not come to the incident location on the night of the incident.

NYPD Documents

SPRINT index

According to the SPRINT indexes for both the 33rd and 34th Precincts between the hours of 3:00 a.m. and 8:00 a.m. on October 3, 2009, no summonses were issued, no arrests were made, and there were no calls for an ambulance or additional units.

Stop and Frisk Log

According to the Stop and Frisk Log for the 34th Precinct, PO Raleigh and PO Zakoscielny each prepared one stop and frisk report on the night of the incident. However, neither of these incidents occurred at the time of the incident involving § 87(2)(b)

Summons for Incident and Disposition

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of March 24, 2010, with regard to the incident.

Civilian Criminal History

- § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

- § 87(2)(b) has filed no previous CCRB complaints.

Subject Officers' CCRB History

- PO Michael Raleigh has been a member of the service for one year and there are no substantiated CCRB allegations against him (encl. 2).
- PO Gregory Zakoscielny has been a member of the service for two years and there are no substantiated CCRB allegations against him (encl. 3).

Conclusion

Identification of Subject Officers

PO Raleigh, who issued a summons to § 87(2)(b) confirmed that he interacted with § 87(2)(b) § 87(2)(g). Police documentation indicates that PO Zakoscielny was partnered with PO Raleigh at the time of the incident, and § 87(2)(b)'s physical description of PO Zakoscielny corresponds with his physical attributes. § 87(2)(g). The investigation could not identify the officers that responded to the incident location as there is no police documentation confirming their presence at the scene. Additionally, § 87(2)(b) was unable to provide a physical description of the officer that allegedly pushed the unidentified individual. § 87(2)(g)

Investigative Findings and Recommendations

Allegation A – Discourtesy: PO Michael Raleigh spoke obscenely and rudely to § 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Offensive language: PO Gregory Zakoscielny made remarks to § 87(2)(b)
§ 87(2)(b) **based upon ethnicity.**

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Force: PO Michael Raleigh used physical force against § 87(2)(b)

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§ 87(2)(g)

Allegation D – Force: An officer used physical force against § 87(2)(b)

§ 87(2)(g)

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Team: _____

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Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date